

**PUBLIC HEALTH DEPARTMENT[641]**

**Notice of Intended Action**

**Proposing rule making related to childhood lead poisoning prevention program and providing an opportunity for public comment**

The Department of Public Health hereby proposes to amend Chapter 72, “Childhood Lead Poisoning Prevention Program,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code section 135.102.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 135.101 to 135.105.

*Purpose and Summary*

Chapter 72 outlines the rules and processes to establish local childhood lead poisoning prevention programs and establishes a funding formula. The proposed amendments align the rules more closely to the original enabling legislation by removing additional requirements currently included in the rules.

*Fiscal Impact*

This rule making has no fiscal impact to the State of Iowa.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the Department’s variance and waiver provisions contained in 641—Chapter 178.

*Public Comment*

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on April 17, 2018. Comments should be directed to:

Stuart Schmitz  
Department of Public Health  
Lucas State Office Building  
321 East 12th Street  
Des Moines, Iowa 50319  
Email: [stuart.schmitz@idph.iowa.gov](mailto:stuart.schmitz@idph.iowa.gov)

*Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

*Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Amend rules 641—72.1(135) to 641—72.3(135) as follows:

**641—72.1(135) Definitions.**

*“Approved program”* means a program that meets the requirements of subrule 72.2(3) and has been approved by the department.

*“Capillary”* means a blood sample taken from the finger or heel for lead analysis.

~~*“Certified elevated blood lead (EBL) inspection agency”* means an agency that has met the requirements of 641—70.5(135) and has been certified by the department.~~

~~*“Certified elevated blood lead (EBL) inspector/risk assessor”* means a person who has met the requirements of 641—70.5(135) for certification or interim certification and who has been certified by the department.~~

~~*“Chelation”* means the administration of medication that binds lead so that it can be removed from the body.~~

*“Department”* means the Iowa department of public health.

~~*“Elevated blood lead (EBL) child”* means any child who has had one venous blood lead level greater than or equal to 20 micrograms per deciliter or at least two venous blood lead levels of 15 to 19 micrograms per deciliter.~~

~~*“Elevated blood lead (EBL) inspection”* means an inspection to determine the sources of lead exposure for an elevated blood lead (EBL) child and the provision within ten working days of a written report explaining the results of the investigation to the owner and occupant of the residential dwelling or child-occupied facility being inspected and to the parents of the elevated blood lead (EBL) child.~~

~~*“Elevated blood lead (EBL) inspection agency”* means an agency that employs or contracts with individuals who perform elevated blood lead (EBL) inspections. Elevated blood lead (EBL) inspection agencies may also employ or contract with individuals who perform other lead-based paint activities.~~

~~*“Laboratory”* means a laboratory satisfactorily participating in the blood lead analysis proficiency testing program of the Centers for Disease Control and Prevention/University of Wisconsin.~~

~~*“Lead-based paint hazard”* means hazardous lead-based paint, a dust-lead hazard, or a soil-lead hazard as defined in 641—Chapter 70.~~

*“Local board”* means a county, district, or city board of health.

*“Local childhood lead poisoning prevention program”* means a program in which the services listed in subrule 72.2(3) are provided by agencies located in a community.

~~*“Venous”* means a blood sample taken from a vein in the arm for lead analysis.~~

**641—72.2(135) Approved programs.**

**72.2(1)** ~~An individual~~ A local board of health representing a geographic area with a population of at least 15,000 is eligible to apply for status as an approved program pursuant to Iowa Code section 135.104, which sets forth the eligibility requirements contained in the application. ~~A group of local boards of health representing a geographic area with a total population of at least 15,000 may apply for status as an approved program by designating an individual local board of health to apply on behalf of the group.~~

**72.2(2)** A local board wishing to apply for status as an approved program shall make application to the Iowa department of public health by December 1 of each year, beginning on December 1, 2003, for the program year of July 1, 2004, through June 30, 2005. An individual local board of health may submit or be included in only one application for status as an approved program. An application for status as an approved program must follow in the format which will be made available from the Lead Poisoning Prevention Program, Iowa Department of Public Health, Lucas State Office Building, Des Moines, Iowa 50319-0075. All materials submitted as part of the application for status as an approved program are public records.

**72.2(3)** A local board applying for status as an approved program must demonstrate that it is prepared to provide the following activities and authority immediately upon the receipt of funding. The application submitted by a local board of health shall specify the name of the agency and of the individual staff member who will be responsible for carrying out each of the following activities:

- a. A public education program about lead poisoning and the dangers of lead poisoning to children.
- b. An effective outreach effort to ensure the availability of services in the geographic area to be served.
- c. A blood lead testing program for children, with an emphasis on children less than six years of age. Blood lead testing should be done in conformance with the department's statewide blood lead testing plan, available on request from the department.
- d. Provision of laboratory services, in conformance with the above-cited reference.
- e. A program to ensure that children identified with blood lead levels greater than or equal to 10 micrograms per deciliter receive services appropriate for the blood lead level including, but not limited to, confirmatory venous blood lead testing, follow-up capillary or venous blood lead testing, nutrition counseling, a home nursing visit, a developmental evaluation, a medical evaluation, and chelation.
- f. Elevated blood lead (EBL) inspections in dwelling units associated with an elevated blood lead (EBL) child. Elevated blood lead (EBL) inspections shall be conducted by certified elevated blood lead (EBL) inspector/risk assessors employed by or under contract with a certified elevated blood lead (EBL) inspection agency.
- g. Follow-up inspections to ensure that lead-based paint hazards identified in dwelling units associated with an elevated blood lead (EBL) child are corrected.
- h. Adoption and enforcement of a local code which provides adequate authority to require control of lead-based paint hazards found in dwelling units associated with an elevated blood lead (EBL) child.
- i. Development of a community coalition to address childhood lead poisoning prevention.
- j. Management of blood lead and case management data using the Strategic Tracking of Elevated Lead Levels and Remediation (STELLAR) program.
- k. A plan of intent to continue the program on a maintenance basis after the grant is discontinued.

**72.2(3)** The program administered by a local board of health or city receiving funding for an approved childhood lead poisoning prevention grant program shall include:

- a. A public education program about lead poisoning and dangers of lead poisoning to children.
- b. An effective outreach effort to ensure availability of services in the predicted geographic area.
- c. A screening program for children, with an emphasis on children less than six years of age.
- d. Access to laboratory services for lead analysis.
- e. A program of referral of identified children for assessment and treatment.
- f. An environmental assessment of suspect dwelling units.
- g. Surveillance to ensure correction of the identified hazardous settings.
- h. A plan of intent to continue the program on a maintenance basis after the grant is discontinued.

**72.2(4)** By January 1 of each year, the department shall notify each local board of health that has applied for status as an approved program whether the local board of health has been granted status as an approved program, beginning January 1, 2004, for the program year of July 1, 2004, through June 30, 2005.

**72.2(5)** A county that receives childhood lead poisoning prevention funding from the department for the program year of July 1, 2002, through June 30, 2003, shall have status as an approved program for the program year of July 1, 2003, through June 30, 2004. Unless the local board of health requests

otherwise by March 1, 2003, the contractors that provide childhood lead poisoning prevention services in the county for the program year of July 1, 2002, through June 30, 2003, shall continue to serve as contractors for the program year of July 1, 2003, through June 30, 2004.

**641—72.3(135) Level Reallocation of funding.**

~~72.3(1)~~ The department shall develop a formula to allocate funding to approved programs. In the development of the formula, the department shall consider factors that affect the burden of childhood lead poisoning in a geographic area including, but not limited to, the number of children under the age of six years, the percentage of housing built before 1950, the percentage of children in poverty, and the demonstrated prevalence of childhood lead poisoning in the geographic area to be served.

~~72.3(2)~~ The department shall allocate state funds appropriated to the department for this program according to this formula. Federal funds available to the department for local childhood lead poisoning prevention programs shall be allocated to approved programs according to this formula unless a different method is mandated by the federal agency providing the funding.

~~72.3(3)~~ The approved program shall provide one dollar for every three dollars of state funding awarded for each of the first two years of funding and then one dollar for each dollar of state funding awarded for the third and subsequent years of funding. Local contributions may be in the form of in-kind matching.

~~72.3(4)~~ Matching requirements for federal funding allocated to approved programs shall be as mandated by the federal agency providing the funding.

~~72.3(5)~~ On January 1, April 1, and June 1 of each year, the department shall ask each approved program to estimate the amount of funds that the approved program has been awarded but will not use. The department may ~~allocate~~ reallocate these funds to approved programs with demonstrated special needs for childhood lead poisoning prevention services.